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SIPDIS

SENSITIVE

TREASURY FOR TERRORIST FINANCING TASK FORCE  
TREASURY ALSO FOR OTA:JANTONOVICH  
STATE FOR EB/ESC/ESP, S/CT, INL/LP, AND WHA/CEN

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SUBJECT: Honduras' Fight Against Money Laundering: A Good Start

REF: (A) 03 Tegucigalpa 2939

(B) 04 Tegucigalpa 729

(C) 04 Tegucigalpa 381

1. (U) Summary and Action Request: Two years after passing a new law against money laundering, the GOH has made considerable progress in implementing the law and establishing the entities responsible for the investigation and prosecution of financial crimes. The USG, through the Department of Treasury's Office of Technical Assistance, has supported this process by aiding in the establishment of the Financial Information Unit (FIU), providing day-to-day assistance with investigations and case management, and training members of the investigative and judicial branches of government. The Treasury advisors have been generally impressed at the speed with which Honduras has implemented the law. While these efforts are beginning to show results, with over a hundred money laundering cases under investigation and over USD 3 million worth of assets seized, sustained progress will depend upon increased commitment from the GOH to prosecute financial crimes aggressively.

2. (SBU) The Honduran FIU wishes to become a member of the Egmont Group, the international group of recognized FIUs. A plan for Spain to sponsor the Honduran FIU for membership in 2004 has fallen through, and the Director of the Honduran FIU has asked if the USG would be willing to sponsor the Unit for Egmont Group membership in 2005. Action request (see also paragraph 22): Post requests input from agencies in Washington as to the appropriate response to this request. Post's Treasury advisor believes that Honduras' FIU is very close to meeting the requirements for Egmont membership. End Summary and Action Request.

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Background  
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3. (U) In February 2002, the Honduran Congress passed new anti-money laundering legislation, replacing a law whose narrow definition of money laundering made it virtually impossible to successfully prosecute the crime. The law, which entered into force on May 15, 2002, called for the establishment of two new government entities: one to collect and analyze financial information, and another to manage seized assets resulting from investigations. The law also requires the coordination of these new units with two existing units in two other ministries. Work to establish and equip these units began soon after the law was passed, and after some initial start-up problems, they are working together fairly effectively (see reftel A and previous).

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Anti-Money Laundering Institutions  
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4. (U) The 2002 law established a Financial Information Unit (FIU), analogous to FinCEN in the United States, for the collection and analysis of suspicious financial transactions. Institutionally and physically, the FIU is located within the National Banking and Securities Commission (CNBS). The Unit currently has a staff of six analysts and a director who reports directly to the President of the CNBS.

5. (U) Actual prosecution of money laundering crimes is the responsibility of the Office of the Special Prosecutor for Organized Crime (FESCCO), which is under the Public Ministry (analogous to the U.S. Department of Justice). The 2002 law requires that a public prosecutor from FESCCO be assigned to the FIU for investigation of financial crimes. In practice, this arrangement has evolved over time. In 2002, a prosecutor from the Public Ministry was assigned to the FIU full-time. In 2003, the Public Ministry changed this arrangement so that there were four prosecutors assigned to the FIU, each on a part-time basis, with responsibility for specific cases divided among them depending on their expertise. This has since been reduced to two prosecutors

who visit the FIU together twice a week. The current arrangement seems to be working to the satisfaction of both parties.

16. (U) In its investigation of possible financial crimes, FESCCO also coordinates with the Office of Special Investigative Services, or DGSEI, which is part of the Ministry of Public Security.

17. (SBU) The final institution involved is the Office of Seized Assets, or OABI, within the Public Ministry. The 2002 money laundering law established this office to guard and administer "all goods, products or instruments" of a crime. However, the actual process of establishing and equipping this office to carry out its function has been slow. The implementing regulations governing OABI were not finalized until March 2003, and plans to build separate offices and a warehouse for the group are still incomplete, with the result that seized assets are currently kept in various locations under dispersed authority. The press has reported that seized money under OABI's control has been used to pay the salaries of Public Ministry employees. Consequently, the Office of Seized Assets cannot yet be said to have established firm control over the asset seizure and forfeiture process.

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The Process, and its Weakest Links  
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18. (U) The process for investigation and prosecution of financial crimes is as follows. Banks and other non-bank financial institutions are required to send the FIU information on all transfers exceeding USD 10,000 or 500,000 lempiras (about USD 28,000), or other atypical transactions. The FIU receives over 2,000 reports per month of transactions over the designated threshold, and is required to keep a registry of reported transactions for five years.

19. (U) Twice a week, public prosecutors from FESCCO visit the FIU to examine their findings. When the prosecutors from FESCCO identify a case that warrants further investigation, they pass the case to the investigators in the DGSEI. This process can also operate in the opposite direction: that is, cases can be initiated by the DGSEI, brought to the attention of prosecutors from FESCCO, who then enlist the assistance of the FIU in collecting and investigating the financial records related to the case.

110. (U) Either way, prosecutors from FESCCO, armed with the information from the FIU and the results of the DGSEI's investigations, can apply for a warrant to seize assets or funds identified as having been obtained through illicit or unlawful means. Seized assets are turned over to OABI for safekeeping until a judicial hearing determines whether they should be permanently seized.

111. (SBU) What are the weakest links of this process? First and foremost, the FIU offices are not physically located in a safe and secure area. Sensitive financial information about potentially criminal transactions is handled and filed in an area to which other employees of the CNBS have free access. Despite urgings from three successive Treasury Department advisors, plans to move into a more secure location have been delayed due to budgetary reasons. However, a move is expected to occur in the latter part of April. A lack of resources also means that the FIU has little capacity to check up on financial institutions to ensure that they are truly reporting all of the suspicious transactions that they are required to under the law.

112. (SBU) In addition, the investigative capacity of the DGSEI officials could be considerably improved. At present, some of their investigations are little more than perfunctory document checks, as many of the investigators have little knowledge of financial crimes and hence a poor sense of how to actively investigate such cases.

113. (U) Despite these problems, it appears that the various government entities listed above have now worked out most of the kinks in their interagency relationship, and are working well together and communicating more effectively among themselves.

114. (SBU) Above all, a successful fight against money laundering is hindered by a lack of high-level commitment to the prosecution of crimes committed by wealthy or well-connected Hondurans, and in particular by the weakness of the Public Ministry. As the Ambassador and DCM have pointed out to senior GOH officials on several occasions (most recently reftel B), the Public Ministry has over a hundred open investigations into cases of money laundering, and has yet to produce a single conviction. As any chain is only as strong as its weakest link, so the fight against money laundering and other financial crimes will only be as effective as the weakest institution involved in the

process.

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USG and Other Donor Assistance  
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15. (U) USG assistance has supported the implementation of the law, establishing the entities which the law requires, and improving the efficiency of day-to-day operations within these entities. Beginning shortly after the passage of the law, consultants from the Department of Treasury's Office of Technical Assistance have been providing training sessions to the various groups listed above.

16. (U) In August 2002, Treasury advisors held an initial seminar for judges, prosecutors, police investigators, Banking Commission officials and bank compliance officers. During 2003, training was more focused on specific groups, as Treasury advisors provided specialized training for roughly 80 Honduran judges, for members of the DGSEI and another police investigative unit, as well as regular periodic assistance to the FIU and the prosecutors at FESCCO. Treasury advisors also assisted as the FIU provided training to bank compliance officers under the auspices of the National Association of Banks of Honduras (AHIBA).

17. (U) Currently, the Treasury advisor accompanies the prosecuting attorneys from the Public Ministry to the FIU on their twice-weekly visits. A second round of training for approximately 60 judges is also being planned for April, after which over 80 percent of Honduran judges, and all of those most likely to hear money laundering cases, will have received the training in money laundering and financial crimes. Advanced investigative training and mentoring has also been scheduled for the latter part of April for DGSEI officials.

18. (U) In addition to the assistance provided by the Treasury Department, INL funds go to strengthen the GOH agencies engaged in the fight against money laundering in various ways. Through INL assistance in the form of computer equipment and technical assistance, the DGSEI Money Laundering Investigative unit has been able to work in a task force situation with prosecutors from FESCCO to identify and focus on strong money laundering cases.

19. (U) Other donors are also supporting the GOH in this area. In June 2003, the World Bank approved a seven-year, USD 9.9 million Financial Sector Technical Assistance Credit, which includes measures to support the fight against money laundering and the financing of terrorism. This component of the Credit aims to provide training, and possibly equipment such as computers and software, to the FIU and other anti-money laundering entities within the GOH. The Treasury advisor and EconOff met with World Bank officials in mid-2003 to discuss the Bank's plans and avoid duplication of efforts.

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A Setback: Postponement of Egmont Certification  
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20. (U) The Honduran government had established, as an immediate goal, membership by 2004 in the Egmont Group, the international organization of recognized FIUs. Acceptance of the Honduran FIU into the Egmont Group, which currently has 84 members, would signify that the Honduran Unit meets the international standards of Financial Information Units. In addition, membership would allow the Honduran FIU to share information with FIUs of other member countries, resulting in a significant increase in international cooperation and enhanced effectiveness in investigating cases of financial crimes.

21. (SBU) In order for a new country to join the Egmont Group, an existing member must sponsor the new country for membership. Spain had been planning to sponsor Honduras at the upcoming XII Egmont Plenary to be held in June 2004. However in late February, Spain advised that Honduras will have to wait until at least 2005 to be considered for membership, and will remain with only observer status in Egmont for the coming year. Spain's failure to actively sponsor Honduras for membership this year was apparently due to Spain's decision to sponsor two other countries this year, rather than a judgment that Honduras does not meet the qualifications for membership. While the Director of the Honduran FIU is disappointed, she is continuing to work with the Spanish for possible sponsorship in 2005, while also looking for other countries which might agree to sponsor Honduras.

22. (SBU) Action request: The Director of the Honduran FIU has asked if FinCEN could sponsor Honduras for Egmont Group membership in 2005. Post requests input from agencies in Washington as to the appropriate response to this request. We understand that sponsorship would entail a visit from FinCEN officials to the Honduran FIU, assistance in

correcting any problems identified, and then formal nomination of the FIU for membership in the Egmont Group at their plenary meeting in 2005. The Treasury advisor at Post believes that, once the FIU has moved to a more secure location, the Unit will be in a strong position to meet the requirements for Egmont membership. End Action Request.

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Results  
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123. (SBU) With the apparatus for fighting financial crimes now essentially in place, the system is beginning to show results. There are currently 115 cases under investigation with the DGSEI, and the Treasury advisor is encouraging the investigators to maximize their efficiency by focusing on those cases most likely to lead to convictions and seizures. During 2003, according to its own official figures, OABI seized cash totaling USD 2.75 million and goods with an estimated value of USD 550,000, for a total of USD 3.3 million worth of seized assets. As mentioned above in paragraph 7, however, the ability of OABI to provide accountability and security for these seized assets is far from perfect, and remains a serious concern.

124. (SBU) In 2003, 10 cases were brought to court under the money laundering law, but as yet no one has been convicted under the law. This does not mean that the law has been of no use, as money laundering crimes are often tied to predicate offenses which are prosecuted. For example, in a case that has received tremendous public attention, Honduran Congressman Armando Avila Panchame was convicted in February to 20 years of prison for drug trafficking (see reftel C). His assets at the time of his conviction, however, amounted to just over 100,000 Lempira (less than USD 6,000). While he is unlikely to ever be convicted of money laundering, an investigation is ongoing to identify and locate the proceeds of his illicit activities.

125. (SBU) The first full-blown trial to focus exclusively on money laundering activities is scheduled for June in La Ceiba. The Treasury advisor is coordinating with INL to provide travel and per diem expenses for both national and international witnesses.

126. (U) Banking officials have told EconOffs that they see evidence that the new legislation is having an effect. There has also been anecdotal evidence of an increase in the physical transportation of cash in Honduras and across its borders, confirming the sense of some in the banking community that individuals wishing to move illicit funds have become less likely to use the banking system to do so. If true, this has implications for future training, and highlights the need for an effective response to money laundering to evolve over time.

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Comment  
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127. (U) The passage of strengthened money laundering legislation in early 2002 was the first major legislative success for the Maduro administration, and was seen at the time as a sign of the new administration's support for issues of concern to the U.S. and initiatives that would address the overall security problems in the country. The next step, ensuring proper implementation of the law, has encountered some difficulties, but has basically proceeded well over the last two years. USG assistance has been crucial throughout this process, and continues to have a positive impact upon the quality of the investigations taking place. Continued progress will depend on the further training and retention of personnel familiar with money laundering and financial crimes, clearer delineation of responsibility among different government entities, and improved ability and willingness of the Public Ministry to investigate and prosecute financial crimes aggressively. End comment.

Palmer